

**Intergovernmental Negotiating Committee on the
UN Framework Convention on International Tax Cooperation
Workstream I
Co-Leads' Draft Issues Note**

I. Introduction

1. Workstream I of INC/Tax is charged with developing the draft text of the UN Framework Convention on International Tax Cooperation. It will be submitted, along with the draft text of the first early protocol on the “taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy”¹ and the draft text of the second protocol on the “prevention and resolution of tax disputes”² to the UN General Assembly for its consideration in the first quarter of its 82nd session in the second half of 2027.

II. Scope of Initial Work

2. The Terms of Reference (ToR)³ provide significant detail regarding the expected content of the Framework Convention. The work plan prioritizes drafting of the commitments by the end of 2025, as many of the other provisions will flow naturally from them. A second category of provisions is those that depend on what is covered in the commitments (such as capacity building and technical assistance). A third category consists of those that can be drafted at any time (primarily procedural provisions commonly found in multilateral conventions).

3. The individual subparagraphs in paragraph 10 of the ToR generally set out the subjects to be addressed in the commitments but were not drafted using the language of commitments. There may be some differences in purpose among the commitments, with some intended to provide support for the early or future protocols and others possibly including stand-alone actions. These differences may result in some commitments being more detailed than others.

4. The workstream had productive discussions regarding possible elements of commitments relating to every subject described in paragraph 10 of the ToR, but, as described below, those not addressed in Section III require further development before discussion in the INC Plenary. The workstream may also consider including commitments on additional subjects, subject to the Committee completing its tasks on schedule.

III. Commitments that might be presented at the August 2025 Sessions

5. This section sets out a summary of the views expressed thus far in the workstream’s discussions with respect to three commitments that could be presented to the INC Plenary for discussion at the August 2025 Sessions. Two of them have been prioritized because they relate to the subjects to be addressed in the early protocols.

¹ See A/AC.298/2.

² See A/AC.298/CRP.5.

³ See A/AC.298/2.

a. Effective prevention and resolution of tax disputes

6. The ToR mention settlement of disputes in three contexts. Paragraph 10 includes “effective prevention and resolution of tax disputes” as one of the subjects for a commitment. Paragraph 16 lists prevention and resolution of tax disputes as a priority area for a potential early protocol and this topic was chosen for the second protocol⁴ at the INC organizational session in February 2025. In addition, the ToR includes dispute settlement in the paragraph 13 list of “Other Elements” provisions that should be included in the Framework Convention. Discussion of the topic of effective prevention and resolution of tax disputes therefore took place in both Workstream I and Workstream III because of the need to coordinate the various provisions of the Framework Convention and protocol. A full issues overview with respect to effective prevention and resolution of tax disputes can be found in the issues note relating to Workstream III regarding Protocol II; this section provides background for the commitment that would be included in the Framework Convention. The issue of resolution of disputes arising under the Framework Convention itself will be addressed in connection with the third category of provisions mentioned in paragraph 2.

7. Litigation of tax disputes frequently is time-consuming and resource-intensive for both taxpayers and tax authorities. For these reasons, tax authorities over time have developed various mechanisms aimed at either preventing tax disputes from arising in the first place or resolving them without resorting to court proceedings. Successful use of such mechanisms can be in the best interests of both taxpayers and tax authorities by conserving resources. However, this is the case only if the processes are fair, independent, accessible, and effective in resolving disputes in a timely manner for both taxpayers and the tax authorities involved. A system that satisfies those criteria can provide legal certainty to taxpayers and lessen compliance burdens, reducing barriers to cross-border trade and investment, making tax administration more efficient and, indirectly, increasing domestic resource mobilization.

8. Moreover, final resolution of a cross-border tax dispute through domestic courts may take years, and there is no guarantee that a court decision will be accepted by any other countries whose tax revenues are at stake, meaning that the risk of double taxation may persist. The urgency to address these problems has increased as individual taxpayers are more mobile, business structures and supply chains touch more jurisdictions, and underlying transactions become more complex. The primary mechanism for resolving disputes regarding the allocation of taxing rights between jurisdictions are the substantive rules contained in bilateral tax treaties and their “mutual agreement procedure”, a government-to-government mechanism. However, many developing countries have small treaty networks but host a significant amount of cross-border trade and investment; for them, bilateral or multilateral resolution of tax disputes can be difficult. This puts greater pressure on prevention of tax disputes in those jurisdictions.

9. The workstream discussed elements of a commitment that would address these concerns. The relevant article could begin with a statement recognizing the importance of legal certainty to cross-border trade and investment, with the ultimate goal of improving domestic resource mobilization. It could also include an undertaking to establish dispute prevention and resolution

⁴ See A/AC.298/CRP.5.

mechanisms that are fair, independent, accessible, and effective in resolving disputes in a timely manner for both taxpayers and the tax authorities involved.

10. ***The Committee is invited to discuss the issue of effective prevention and resolution of tax disputes and, in particular, whether:***

a) the commitments described in paragraph 9 effectively would address the concerns that have been expressed in the workstream with respect to effective prevention and resolution of tax disputes;

b) the commitments described in paragraph 9 would provide sufficient support for the early protocol being developed in Workstream III; and

c) there are additional concerns regarding effective prevention and resolution of tax disputes that should be addressed in that article of the Framework Convention.

b. *Fair allocation of taxing rights, including equitable taxation of multinational enterprises*

11. The issues note for Workstream II⁵ on “taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy” describes the in-depth and nuanced discussions of the problem of fair allocation of taxing rights with respect to one type of income. These discussions also helped to shape the discussions in Workstream I.

12. Some participants emphasized that a fair allocation of taxing rights would support domestic resource mobilization. In this regard, some participants focused on restoring taxing rights that had been eroded as business models changed. Others took a broader view, regarding the goal as ensuring that every jurisdiction where business activity takes place should share in taxing rights over the income generated from such business activities. For them, this would include not only the countries of supply and demand but also where users are located while other participants are uncertain of the economic basis on which taxing rights should be allocated to third countries. Some referred to basing taxing rights on economic substance and value creation while questioning whether demand, by itself, creates value. Participants also argued for taking into account possible negative effects with respect to cross-border trade and investment, economic efficiency and tax neutrality, and simplicity and administrability. The rules should also be “future-proof” by satisfying these criteria even as business models change in ways that are impossible to now foretell.

13. It was clear that what is perceived as “fair” is subjective and differs from country to country. Even if “fairness” is not explicitly defined in the Framework Convention, it is likely that elements of such a concept will emerge as the Framework Convention and its protocols address aspects of the current system that many view as unfair.

14. The commitment should urge parties to agree on an approach to the allocation of taxing rights that recognizes that every jurisdiction where business activity takes place should share in taxing rights over the income generated from such business activities, while recognizing the value

⁵ [Reference to WSII issues note.]

of economic efficiency and tax neutrality, simplicity and administrability and the importance of effects on cross-border trade and investment. There might also need to be some explanation of how to determine where business activity takes place in light of digitalization and other new business models.

15. ***The Committee is invited to discuss the issue of fair allocation of taxing rights and, in particular, whether:***

a) the elements included in paragraph 14 provide a useful outline of a commitment on this topic; and

b) there are additional concerns regarding the fair allocation of taxing rights that should be addressed in that article of the Framework Convention.

c. *Sustainable development*

16. The ToR refers to a commitment to pursuing international tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balanced and integrated manner. This language was adopted in the ToR because it was felt that the concept, which is referenced in a number of documents, is well-understood in the UN system.

17. Therefore, a commitment on this subject could consist largely of language from subparagraph (c) of Paragraph 10 of the ToR:

Taking into account their different capacities, the States Parties agree to pursue international tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balanced and integrated manner.

18. ***The Committee is invited to discuss the issue of international tax cooperation approaches that contribute to sustainable development and, in particular, whether there are additional aspects of international tax cooperation approaches that contribute to sustainable development that should be addressed in additional paragraphs of that article of the Framework Convention.***

IV. Commitments requiring further work before presentation to the INC Plenary

18. The workstream will continue to work on the other subjects covered in paragraph 10 of the ToR: tax evasion and avoidance by high-net worth individuals, tax-related illicit financial flows, tax avoidance, tax evasion and harmful tax practices and effective mutual administrative assistance, including with respect to transparency and exchange of information for tax purposes. Developing countries noted that, in one way or another, lack of information regarding income or assets held outside their country is one of the primary barriers they face in connection with all those subjects. It is therefore anticipated that these subjects will be presented as a comprehensive package at the November 2025 Session of the INC Plenary to ensure common or complementary approaches to the subjects.